

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AVOCENT REDMOND CORP.,

Plaintiff,

v.

ROSE ELECTRONICS, et al.,

Defendants.

Case No. C06-1711MJP

ORDER ON MOTION TO LIFT STAY

This matter comes before the Court on Avocent's motion to lift the stay in this matter. (Dkt. No. 210.) The Court has considered the motion, the response (Dkt. No. 212), the reply (Dkt. No. 214), and all other pertinent documents in the record. The Court DENIES the motion to lift the stay.

On October 30, 2007, the Court stayed this matter pending resolution of Defendants' request for to the USPTA that it reexamine Avocent's patents. (Dkt. No. 177; see also Dkt. No. 191 (declining to lift stay).) After the stay had been entered, Avocent filed a 28 U.S.C. § 1498 action against the United States in the Court of Federal Claims and Rose intervened as a defendant. (Knox Decl., Ex. 4.) The Court of Federal Claims held a Markman hearing on October 1, 2009 and dispositive motions are due by January 27, 2010.

Where there are two related patent cases pending in separate federal courts, a district court may stay its proceedings "in deference to the related action." Pfizer v. Apotex Inc., No. 08-cv-7231, 2009 WL 1657572, at *4 (N.D. Ill. June 12, 2009). In light of the parallel proceeding, the Court's analysis of the factors considered when it denied Plaintiff's first motion to lift the stay

1 remains valid. (See Dkt. No. 191.) The Court declines to lift the stay at this time as it may result
2 in duplicative proceedings.

3 Avocent's motion (Dkt. No. 210) is DENIED. The stay shall remain in place pending the
4 Court of Claims' consideration of any dispositive motions in the related case. The parties shall file
5 a notice with the Court within five (5) days of receiving a ruling on any dispositive motions filed
6 in that matter. The Court further requests that the parties provide the Court with a copy of the
7 Court of Claims' Order on the Markman hearing.

8 The Clerk is directed to transmit a copy of this Order to all counsel of record.

9 DATED this 27th day of October, 2009.

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12 Marsha J. Pechman
13 United States District Judge
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